

# MONTANA STATE AUDITOR

JOHN MORRISON  
STATE AUDITOR



BUSINESS & LABOR

EXHIBIT NO. 5

DATE 3-10-09

BILL NO. HB 291

COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

November 3, 2006

Bruce Halcro  
1006 Euclid Ave.  
Helena, MT 59601

Dear Mr. Halcro:

This letter confirms our receipt of your emails and facsimile, as well as our telephone conversations regarding the interpretation of §33-18-224, Mont. Code Ann, copy enclosed.

Your query deals with (1)(a) and the question of whether the word "use" not only concerns auto repairs, but also estimates. In checking with the legal staff, our answer would be no. A legislative fix would be to amend (8) to include the following language: "Automobile body repair business or location" does include a business or location where insurance estimates are conducted. It is important to note that (1) **only** deals with first party insureds, **not** third party claimants.

In an August 30, 2006 email, you had concerns about being provided a list pursuant to §33-18-224(2)(c)MCA. However, that provision of the code applies to an insurance requesting the list. Furthermore, in looking at the email, it appears that the Hartford email provides a list of qualifications. The page provided also appears to be one page of a multi-page document. We would not be able to draw any conclusions without the complete document and a complete review.

You expressed an interest in hiring a lobbyist to maybe work changes in this code. If your organization decides to make changes, you might want to look at (2)(c)(iii) which states: "prevailing competitive market price" versus (4) which states: "lowest prevailing market price". There appears to be a disconnect between these two phrases.

We appreciate your time and courtesy in dealing with these important issues.

Sincerely,

A handwritten signature in cursive script that reads "Carol Roy".

Carol Roy  
Administrator  
Policyholder Services

## Montana Code Annotated 2005

*typical*  
*get rid of*  
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**33-18-222. Lowest prevailing market price.** For purposes of 33-18-221 and 33-18-223, "lowest prevailing market price" means the lowest market price in a local area. The lowest prevailing market price may not be less than cost as provided in 30-14-209. *Excluding a specific contract w/ Ins Co.*

**History:** En. Sec. 2, Ch. 554, L. 1993; amd. Sec. 3, Ch. 526, L. 1999; amd. Sec. 3, Ch. 345, L. 2001.

*Provided by Montana Legislative Services*

30-14-209. Sales at less than cost forbidden.

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**30-14-209. Sales at less than cost forbidden.** It is unlawful for a vendor to sell, offer for sale, or advertise for sale any article of commerce at less than the cost thereof to the vendor or to give, offer to give, or advertise the intent to give away any article of commerce for the purpose of injuring competitors and destroying competition.

**History:** En. 51-509 by Sec. 9, Ch. 518, L. 1977; R.C.M. 1947, 51-509.

*Provided by Montana Legislative Services*